



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/545,639	04/07/2000	Ryan Cunningham	72189/99664	9723

33356 7590 03/08/2004

SOCAL IP LAW GROUP
310 N. WESTLAKE BLVD. STE 120
WESTLAKE VILLAGE, CA 91362

EXAMINER

VAUGHN JR, WILLIAM C

ART UNIT	PAPER NUMBER
----------	--------------

2143

DATE MAILED: 03/08/2004

20

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/545,639

Applicant(s)

CUNNINGHAM ET AL.

Examiner

William C. Vaughn, Jr.

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-60 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-23 and 33-47, drawn to periodically opening a viewer program in which a next ad file from an ad file pool is displayed and hiding the viewer program after a predetermined numbers, classified in class 709, subclass 219 and 224.
 - II. Claims 24-33, drawn to the monitoring a connection and access control system causes the communication link to the network to be severed if it fails to received an expected pulse message... severed if there is a discrepancy, classified in class 709, subclass 229.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as periodically opening a viewer program window in which a next ad file from the ad file pool is displayed and hiding the viewer program window after a predetermined number of ad files from the ad file pool have been played and keeping the viewer program window hidden for a predetermined quiet interval and managing the ad file pool so as to keep track of the number of times each ad file in the ad file pool has been viewed and determine when each ad file in the ad file pool should no longer be viewed, but lacks wherein the viewer program sends a pulse message to the access control system at predetermined intervals, and the access control system causes the

Art Unit: 2143

communication link to the network to be severed if it fails to receive and expected pulse message. In the instant case, Invention II has separate utility such as wherein the viewer program sends a pulse message to the access control system at predetermined intervals, and the access control system causes the communication link to the network to be severed if it fails to receive and expected pulse message, but lacks periodically opening a viewer program window in which a next ad file from the ad file pool is displayed and hiding the viewer program window after a predetermined number of ad files from the ad file pool have been played and keeping the viewer program window hidden for a predetermined quiet interval and managing the ad file pool so as to keep track of the number of times each ad file in the ad file pool has been viewed and determine when each ad file in the ad file pool should no longer be viewed. See MPEP § 806.05(d).

3. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.
4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.
5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
6. Group I search (Claims 1-23 and 33-60) would require use of search of class 709/219 (which would not be required for Group II).

Art Unit: 2143

7. Group II search (Claims 24-32) would require use of search of class 709/229 (which would not be required for Group I).

8. A telephone call was made to Joel G. Landau on 04 March 2004 to request an oral election to the above restriction requirement, but did not result in an election being made (see also attached interview summary).

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

9. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

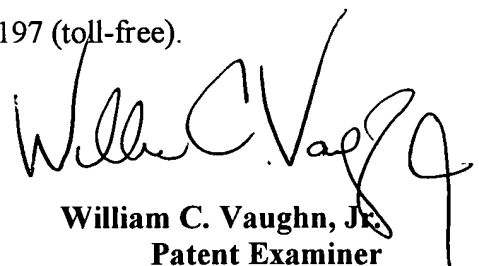
Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Vaughn, Jr. whose telephone number is (703) 306-9129. The examiner can normally be reached on 8:00-6:00, 1st and 2nd Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on (703) 308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2143

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "William C. Vaughn, Jr.", with a stylized flourish at the end.

William C. Vaughn, Jr.
Patent Examiner
Art Unit 2143
05 March 2004